

REMARKS

Claims 1 and 3-50 are pending in this application. By this Amendment, claims 1, 3-9, 13, 19, 25-27, 29-30, 32-33 and 43 are amended, claim 2 is canceled, and new claims 45-50 are added. No new matter is added. Support for the amendments to the original claims may be found, for example, in paragraphs [0014] and [0080]. Support for new claims 45-50 may be found, for example, in paragraphs [0049] - [0050] and [0080].

The Oath/Declaration has been objected to as allegedly not being signed. Applicant filed a signed declaration on February 23, 2004. PAIR shows that this signed declaration was received in the Patent Office on February 23, 2004. Accordingly, withdrawal of this objection is requested.

Claims 1-8 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Independent claim 1 has been amended to recite a system for evaluating characteristics of body typography that comprises a screen and at least one of a plurality of images corresponding to different grades or at least one video sequence. Applicant respectfully requests withdrawal of this rejection.

In view of the three separate groups of rejections presented in the Office Action, Applicant respectfully addresses each rejection as follows:

Rejection 1

Rejection 1 includes the following grounds:

1. Claims 1-8 stand rejected under 35 U.S.C. §103(a) over Smith et al., U.S. Patent No. 6,253,210 in view of Qian et al., U.S. Patent No. 6,697,506.
2. Claims 9-15, 17-34, 43-44 stand rejected under 35 U.S.C. §103(a) over Smith in view of Qian, and further in view of Kenet et al., U.S. Patent No. 5,016,173.
3. Claim 16 stands rejected under 35 U.S.C. §103(a) over Smith in view of Qian and further in view of Chin et al., U.S. Patent No. 4,998,972.

4. Claims 35-42 stand rejected under 35 U.S.C. §103(a) over Smith in view of Kenet, and further in view of Gutkowicz-Krusin et al., U.S. Patent No. 6,208,749 (hereinafter "Krusin").

These grounds for rejections are respectfully traversed.

Claim 1 recites, *inter alia*: "a plurality of images corresponding to different grades of at least one characteristic of body typology," and that the video sequence is "obtained by filming the scalp or the skin of a person whose state is deemed to correspond to that of at least one of images corresponding to different grades of body typology."

The combination of Smith and Qian fails to teach or suggest these features of claim 1. As acknowledged by the Examiner, Smith does not explicitly disclose displaying different grades of the body typology. Smith discloses a video database (402) that contains recording motion picture images of neurosurgical procedures or tutorials for these procedures (*see* col. 7, lines 7-9) and deals with video images of the brain (*see* col. 7, lines 61-62). However, Smith does not teach or suggest a video sequence obtained by filming the scalp or the skin of a person whose state is deemed to correspond to that of at least one of images corresponding to different grades of body typology.

Qian teaches displaying several expert images for one specific type of abnormality related to breast cancer (*see* col. 3, line 64 and col. 5, lines 52-56), those images enabling to cover the range of differences in perception and preferences from one person's eye to another. Qian further teaches enabling a user to select an image according to his preference (*see* col. 6, line 22 -28) and cycling through some or all the images until the image providing the best view of the abnormality is found. As such, these images are related to the viewing ability of a user and seek perception of the abnormality to be as clear as possible. This further suggests that the images differ by display properties such as colour, angle of view, brightness, etc.

Therefore, Qian does not disclose displaying atlas images corresponding to different grades of at least one characteristic of body typology.

Qian, like Smith, also does not disclose a video sequence obtained by filming the scalp or the skin of a person whose state is deemed to correspond to that of at least one of images corresponding to different grades of body typology. Qian thus fails to remedy the deficiencies of Smith.

Because the combination of Smith and Qian fails to teach or suggest all claimed features of claim 1, withdrawal of the 35 U.S.C. §103(a) rejection of claims 1-8 is respectfully requested.

In addition, because claims 27, 35, 37 and 39-42 are directly or indirectly dependent on claim 1, and neither Kenet nor Krusin remedies the deficiencies of the combination of Smith and Qian, withdrawal of the 35 U.S.C. §103(a) rejection of these claims also is respectfully requested.

Independent claim 9, directed to an image acquisition apparatus, recites *inter alia*: "an atlas including images that express different grades of at least one characteristic of body typology" and "the video sequence is obtained by filming the scalp or the skin of a person whose state is deemed to correspond to that of the at least one image".

Independent claim 29, directed to a method for establishing a cosmetic diagnosis, and independent claim 32, directed to a method of prescribing a cosmetic, each recite *inter alia*: "enabling at least one image in an atlas to be selected from a plurality of images of the atlas expressing different grades of at least one characteristic of body typology" and "the video sequence is obtained by filming the scalp or the skin of a person whose state is deemed to correspond to that of the at least one selected image".

Independent claim 43, directed to a computer server, recites *inter alia*: "images corresponding to different grades of at least one characteristic of body typology" and

"said sequence being obtained by filming the scalp or the skin of a person whose state is deemed to correspond to that of the at least one selected image"

The combinations of Smith and Qian or Smith, Qian and Kenet fail to teach or suggest all claimed features of independent claims 9, 29, 32 and 43. As noted previously, neither Smith nor Qian discloses images expressing different grades of at least one characteristic of body typology nor a video sequence obtained by filming the scalp or the skin of a person whose state is deemed to correspond to that of at least one image of an atlas including images that express different grades of a characteristic of body typology.

Kenet and Krusin do not teach displaying images expressing different grades of at least one characteristic of body typology. In addition, Kenet does not teach or suggest a video sequence obtained by filming the scalp or the skin of a person whose state is deemed to correspond to that of at least one image of an atlas including images that express different grades of body typology. Therefore, Kenet and Krusin do not remedy the deficiencies of the combination of Smith and Qian.

Because all of the various combinations of Smith, Qian, Kenet and Krusin fail to teach or suggest all claimed features of independent claims 9, 29, 32 and 43, withdrawal of the 35 U.S.C. §103(a) rejection of these claims and their dependent claims, 10-26, 28, 30-34, 36, 38 and 39-44, is respectfully requested.

Rejection 2

Rejection 2 includes the following grounds:

5. Claims 1-8 stand rejected under 35 U.S.C. §103(a) over Smith, in view of Bazin, U.S. Patent No. 7,006,657.
6. Claims 9-15, 17-34, 43-44 stand rejected under 35 U.S.C. §103(a) over Smith in view of Bazin, and further in view of Kenet.

7. Claim 16 stands rejected under 35 U.S.C. §103(a) over Smith in view of Qian and further in view of Chin.
8. Claims 35-42 stand rejected under 35 U.S.C. §103(a) over Smith in view of Bazin in view of Kenet, and further in view of Krusin.

These rejections are respectfully traversed.

Bazin does not teach or suggest a sequence that would be obtained by filming the scalp or the skin of a person whose state is deemed to correspond to that of at least one of images corresponding to different grades of body typology displayed on a screen.

As noted previously, the various combinations of Smith, Qian, Kenet and Krusin do not teach or suggest features directed to images expressing different grades of at least one characteristic of body typology or a video sequence obtained by filming the scalp or the skin of a person whose state is deemed to correspond to that of at least one image of an atlas including images that express different grades of a characteristic of body typology.

Therefore, Bazin fails to cure the deficiencies of these various combinations.

In view of the above, withdrawal of all 35 U.S.C. §103(a) rejections of all pending claims based on any combination of Smith, Qian, Kenet, Krusin and Bazin is respectfully requested.

Rejection 3

Rejection 3 includes the following grounds:

9. Claims 1-8 are rejected on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claim 157 of Bazin, U.S. Patent No. 7,006,657.
10. Claims 9-15, 17-34, 43-44 stand rejected under 35 U.S.C. §103(a) over Smith in view of Bazin as applied to claim 1, and further in view of Kenet.

11. Claim 16 stands rejected under 35 U.S.C. §103(a) over Smith in view of Bazin and further in view of Chin.

12. Claims 35-42 are believed to be rejected on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claim 36 of Bazin, U.S. Patent No. 7,006,657. (*See* page 27 of the Office Action.)

These rejections are respectfully traversed. Applicant submits herewith a Terminal Disclaimer over Bazin. Accordingly, all of the above grounds of Rejection 3 are moot.

Applicant further submits that new claims 45-50 are patentable over the cited references. New claims 46-50 depend on independent claims 1, 9, 29, 32 and 43 respectively and therefore, are patentable for the reasons provided above.

New claim 45 is directed to an image acquisition apparatus and recites *inter alia*:

"display on the screen at least one image acquired by the camera in association with at least one image of an atlas including images that express different grades of a characteristic of the body typology,

- enable person to select said image of the atlas;
- enable at least one video sequence associated with the selected image to be displayed on the screen, said sequence comprising images expressing said characteristic."

None of Smith, Qian or Kenet discloses that the video sequence is associated with a selected image of an atlas including images expressing different grades of a characteristic of body typology. In addition, the video sequence of Smith may be viewed once a user has pushed on the "play movie" button (614) (*see* col. 9, lines 50-52), regardless of whether an image of the atlas has been selected. As such, Smith does not teach or suggest a video sequence associated with a selected image of the atlas.

Bazin teaches displaying simultaneously an image from the sequence and a image of the external body portion of a person (*see* col. 13, lines 8-11.) Once an image of the sequence

has been selected at step 42, Bazin teaches performing a diagnosis at step 43 and then recommending a product as a function of the diagnosis performed (*see* Bazin, col. 13, lines 38-55 and Fig. 7.) Consequently, Bazin does not enable at least one video sequence associated with the selected image to be displayed on the screen.

In view of these differences, Applicant respectfully submits that claim 45 is patentable over any combination of Smith, Qian, Kenet and Bazin.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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WPB:LES/gml

Attachments:

Amendment Transmittal
Petition for Extension of Time
Terminal Disclaimer

Date: May 15, 2007

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